IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.2729 of 2007
Date of Decision: 22.2.2007

Union of India

Petitioner

versus

Gurinder Pal Singh and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE M.M.AGGARWAL

Present: Shri Kamal Sehgal, Advocate for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed with a prayer to quash the order dated 19.12.2006 (Annexure P/6), vide which, order passed by the Collector, ordering ejectment of respondent No.1, from the land, in dispute, was set aside.

It is apparent from the records that the petitioner issued a notice, under Sections 4 and 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short the Act), to respondent No.1 for his ejectment from the land in dispute. On appearance being put up by respondent No.1 matter was heard by the Collector and vide order dated 31.5.2006 ordered ejectment of respondent No.1 from the land in dispute and also burdened him with damages to the tune of Rs.20,000/- towards use and occupation of the said land. Respondent No.1 went in appeal which was accepted by the Court below vide order dated 19.12.2006 (Annexure P/6) and the order passed by the Collector was set aside. Hence, this writ petition.

Counsel for the petitioner has vehemently contended that the order passed by the Court below is not justified. We have gone through the Paper Book and feel that the order passed is in consonance with the provisions of law. It has been noticed by the Court below that after the respondent put in appearance before the Collector, no date was fixed for producing evidence of the parties concerned. Even summary of evidence recorded was not brought on record. A positive finding has been given that no inquiry was conducted, as is envisaged under the provisions of Sections 4 and 5 of the Act. It has also come on record that while deciding the matter there was a complete violation of principles of natural justice. It has also been found as a matter of fact that in the notice, proper description of the area, from where ejectment of respondent No.1 was sought, was also not given. A further finding has been given that for the purpose of imposing damages no mention was made in the notice which was issued to the respondent No.1 and the damages were imposed without complying with the provisions of Section 5B of the Act.

The Court below after setting aside the order passed by the Collector liberty has granted to the petitioner to proceed afresh as per law. We feel that in view of the facts mentioned above and especially in view of the fact that liberty has been granted to the petitioner to proceed afresh as per law, there is no merit in the present writ petition.

Dismissed.

(Jasbir Singh)
Judge

February 22, 2007 **(M.M.Aggarwal)**
gk **Judge**